

DRAFT
INDIVIDUAL PERMIT INFORMATION SHEET

This handout is intended to provide applicants with general information on the individual permit application and review process.

I. BACKGROUND:

The Army Corps of Engineers (Corps) exercises regulatory jurisdiction over most of the nation's waters, including streams, lakes and wetlands, under several sections of federal law, including Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Section 10 regulates any activity that will affect the course or condition of a navigable water. While there are several historically navigable waters in Utah to which Section 10 applies, the public is more familiar with Section 404. Section 404 regulates the placement of dredged and fill material in the nation's waters. Almost anything can be considered to be fill material if, when it is placed in a water body, the bottom contours of that water body are changed. Earth, rock, sand and concrete are a few commonly used types of fill material. Placing fill material in wetlands for the construction of roads or in streams for the construction of bridges are examples of regulated activities. If you plan to place any type of material in a stream, lake or wetland, or if you plan to dredge a stream, lake or wetland and place the dredged material back into the water body, you will probably need a Section 404 permit from the Corps.

II. INFORMATION REQUIRED IN AN INDIVIDUAL PERMIT APPLICATION:

To apply for an individual Department of the Army permit, you must provide a narrative description of your project and a signed Department of the Army Permit Application Form or a Joint Permit Application Form. The completed form with the supporting narrative must include the items listed below.

1. A complete description of the project including:
 - a. Discussion of the purpose of and need for completion of the work;
 - b. Location of the site including street address, city, county and state, as well as section, township and range and UTM's;
 - c. Identification of all streams, lakes and wetlands affected by the work. If wetlands are present, a formal delineation in compliance with the 1987 Corps of Engineers' Wetland Delineation Manual is required. A description of the environmental setting, including identification of vegetation types in the project area and the functions provided by the water body or wetland to be affected, should also be included.
 - d. Complete description of impacts resulting from the proposed work. All proposed fill placements in streams, lakes or wetlands must be explained by identifying the type and the volume of fill to be placed and the extent of the fill area in acres or square feet. If the project involves placement of fill in a stream, the length of the

channel to be affected must also be provided. In addition, describe functions of the stream or wetlands that would be lost as a result of the project, and describe indirect project impacts to the surrounding area, especially to aquatic resources.

- e. Description of efforts to avoid and minimize adverse impacts of the work on aquatic resources or aquatic functions at the project site, including best management practices to be used during construction to control siltation and erosion;
- f. Proposed project schedule.

2. Appropriate surveys, inventories or reports that will allow the Corps to make a determination of the effect of the project and to complete the necessary coordination to comply with the Endangered Species Act or the National Historic Preservation Act if threatened or endangered species or their habitat exist in the project area or if historic properties are in the project area. The Utah Regulatory Office can provide additional guidance when necessary.

3. Appropriate maps and drawings, including a location map and plan and section views. Professional drawings are not required, however, all drawings must be clear and complete. All water bodies must be shown with proposed fill areas clearly identified and the size of each fill area indicated. Plan view drawings must include a North arrow. The approximate scale of the drawing must be given. All maps and drawings must be on 8-1/2 x 11-inch paper and suitable for black-and-white reproduction. For larger projects, one master map showing all fill areas and their sizes is preferred. This master map should be supported by detailed maps showing individual fill areas and sizes.

4. A list of authorizations required by other federal, state or local agencies. Approvals or denials already issued by those agencies should also be noted.

5. Names and addresses of adjacent property owners and other known interested parties. It is essential that all known interested parties be afforded opportunity to comment. If the supplemental name/address list is long, it would be helpful to receive the list in an electronic format (Excel worksheet, Word document).

The "Instructions for the Joint Permit Application Form" will assist you with your application. Please follow the instructions closely, since incomplete applications will result in processing delays. Some applicants prefer to contract with an agent to complete the form and represent them during the application process. Wetland consultants are also available to complete any wetland delineations that might be required. The Utah Regulatory Office can provide the application instructions and a list of wetland consultants.

III. ADDITIONAL IMPORTANT INFORMATION:

1. Applicants must provide a detailed description of alternatives to the proposed discharge of fill material. Applicants must demonstrate that the proposed discharge of fill into

a water of the United States is unavoidable and is the least-damaging practicable alternative to achieve the basic project purpose. Federal guidelines restrict discharges into aquatic areas where less environmentally damaging, practicable alternatives exist. For this reason, it is critical to the review of your proposal that your application include a complete and full discussion of other possible ways of accomplishing project objectives while avoiding or reducing adverse impacts to the aquatic environment. For example, if your proposal is to fill two acres of wetland as part of a subdivision development, you must explain why your design cannot be changed to completely avoid wetland fills or to minimize wetland impacts by filling less acreage. Any available drawings supporting the position that the selected alternative is the least damaging practicable alternative should be provided.

2. Applicants should provide a discussion of cumulative impacts to streams, lakes and wetlands in the general project area. This paragraph should identify and briefly discuss other fills previously placed in the water body or other water bodies in the general area by the applicant or by other parties.

3. If the Corps issues a permit to fill wetlands, compensatory mitigation will be required. To expedite the permitting process, applicants should include either a final or a conceptual compensatory mitigation plan that includes baseline information (physical and biological characteristics of the area(s) to be impacted and also of the proposed mitigation site); goals of the mitigation; the mitigation work plan; ecologically based success criteria; monitoring plan and schedule for implementing and completing the mitigation work; contingency plan; site protection; financial assurances; and the name(s) of the party responsible for long-term maintenance. The "Habitat Mitigation and Monitoring Proposal Guidelines," dated October 25, 1996, and the "Mitigation and Monitoring Plan Design Criteria" will assist applicants in designing a mitigation plan.

4. Pre-construction photographs of the project site should be provided.

5. An electronic copy of the project application narrative will expedite the publication of the Public Notice.

6. Applicants are encouraged to provide copies of the application package to other interested agencies to assist in their review of the Public Notice. The Utah Regulatory Office can provide appropriate names and addresses.

IV. PUBLIC INTEREST REVIEW PROCESS:

Upon receiving your completed application, the Corps is required to issue a public notice describing your proposed work. The public notice will be sent to interested federal, state and local agencies, organizations, and adjoining property owners who might be affected by the work. This public notice is the primary method of advising interested parties of the proposal and soliciting their comments and other information necessary to evaluate the probable impact of the proposal on the public interest. Therefore, your project description and drawings must fully and clearly describe your proposal. The public notice comment period is usually 30 days. If the

proposal is controversial, the Corps may be required to hold a public hearing to allow the public to fully express its views and to gather additional information.

At the close of the comment period, the Corps will evaluate all available information and decide if the proposed work is counter to the public interest. For non-controversial projects, it takes the Corps 60 to 120 days to finalize a decision on permit applications. Controversial projects or projects involving adverse effects to endangered species, historic properties or the preparation of an environmental impact statement require longer processing times. The Corps encourages all project proponents to coordinate with the Corps in the development of the application and to schedule a pre-application meeting with the Corps and other interested agencies. These meetings often provide an exchange of information that shortens permit processing time.

The completed application and drawings should be mailed to the Army Corps of Engineers, Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010. If you have any questions, contact the Utah Regulatory Office at (801) 295-8380. Additional information on the Corps of Engineers regulatory program can be found on the Sacramento District's website at www.spk.usace.army.mil/regulatory.

Applicants should be aware that under Utah law, the state engineer also has regulatory responsibilities for activities in and adjacent to streams. Contact the Utah Division of Water Rights at (801) 538-7377 for information on the state's regulatory program.